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ruling. *See O'Sullivan v. Boerckel*, 526 U.S. 838, 845 (1999). If a § 2254 petitioner has not presented his habeas claims to the state courts and could still do so, a federal court should dismiss his petition without prejudice. *See Slayton v. Smith*, 404 U.S. 53, 54 (1971).

Hardoby indicates on the face of his petition that he has not filed a petition for a writ of habeas corpus in any state court, raising his current claims. As such, Hardoby has not yet exhausted available state court remedies as required under § 2254(b). He may file a habeas petition in the Supreme Court of Virginia, or in the circuit court where he was convicted, with a subsequent appeal to the Supreme Court of Virginia. *See* Va. Code Ann. §§ 8.01-654(A)(1), 17.1-406(B). Therefore, I must dismiss his § 2254 petition without prejudice for failure to exhaust state court remedies.<sup>1</sup> If Hardoby is dissatisfied with the outcome of his state court habeas proceedings, he may then file a § 2254 petition in this court.

A separate Final Order will be entered herewith.

DATED: October 12, 2016

/s/ James P. Jones  
United States District Judge

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<sup>1</sup> Under Rule 4(b) of the Rules Governing § 2254 Cases, I may summarily dismiss a § 2254 petition “[i]f it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court.”